

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

MOUNTAIN PEAKS FINANCIAL
SERVICES, INC.,

Plaintiff
Judgment Creditor,

v.

PHILIP B. McADAM,

Defendant
Judgment Debtor.

MOUNTAIN PEAKS FINANCIAL SERVICES, INC.'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION
UNDER FED. R. CIV. P. 65

Mountain Peaks Financial Services, Inc. ("Mountain") files the within Motion for Temporary Restraining Order and/or Preliminary Injunction under Fed. R.Civ. P. 65 seeking to restrain and enjoin Philip B. McAdam, his agents, servants, attorneys or any co-owners of 6 Shelly Drive, Pelham, New Hampshire from hypothecating, encumbering, transferring, selling or mortgaging 6 Shelly Drive, Pelham, New Hampshire.

Mountain relies upon the Affidavit of Richard W. Gannett and the exhibits attached to said Affidavit, the undisputed fact that Mountain holds an unsatisfied judgment against Philip B. McAdam in the amount of \$262,164.24 plus interest costs and attorney fees and that during

2003 Philip B. McAdam fraudulently transferred certain real property in Methuen, Massachusetts to his brother Dana P. McAdam upon which Mountain levied an execution on money judgment in 2001. Mountain avers that said transfer was an attempt to defeat Mountain's lawful judgment rights and that a provisional order in this Court is necessary to restrain or enjoin Philip B. McAdam from further transferring or conveying real property titled in his name in Pelham, New Hampshire.

This Court has personal jurisdiction over Philip B. McAdam, although he resides in New Hampshire, as Philip B. McAdam contracted for the purchase of real property in Massachusetts, failed to pay for it, resulting in the subject execution, resided in Massachusetts when the claim arose and was served with process while residing in Massachusetts, hired a Massachusetts attorney to litigate the claim in a state court of Massachusetts and filed a notice of appeal in a state court of Massachusetts arising from an adverse finding from said state court.

Wherefore, Mountain requests that this Court:

- I. Issue a temporary restraining order restraining the defendant Philip B. McAdam, his agents, servants, attorneys, spouse or family members from hypothecating, encumbering, transferring, selling or mortgaging the real property commonly known as 6 Shelly Drive Pelham, New Hampshire;

II. Issuing a preliminary injunction enjoining the defendant Philip B. McAdam, his agents, servants, attorneys, spouse or family members from hypothecating, encumbering, transferring, selling or mortgaging the real property commonly known as 6 Shelly Drive Pelham, New Hampshire;

III. For further relief.

Mountain Peaks Financial Services, Inc.,
Plaintiff Judgment Creditor,
By its attorney,

Richard W. Gannett, Esquire
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Dated: March 18, 2005